

Filing Date: December 22, 2020

Hearing Date: February 16, 2021

File: A-2020-0165

**Owner/
Applicant:** DANIEL TIBURCIO AND CHERRY TANEGA

Address: 34 Pathway Drive

Ward: 5

Contact: Shelby Swinfield, Planner I

Recommendations:

That application A-2020-0165 is supportable, subject to the following conditions being imposed:

1. That the extent of the variances be limited to that shown on the sketch attached to the Public Notice;
2. That the applicant shall obtain a building permit prior to commencing construction;
3. That the proposed gazebo be of a primarily open style construction and shall not be fully enclosed;
4. That failure to comply with and maintain the conditions of the Committee shall render the approval null and void.

Background:

Existing Zoning:

The property is zoned "Residential Single Detached F-14.3 – Special Section 1462 (R1F-14.3-1462)" according to By-law 270-2004, as amended.

Requested Variances:

The applicant is requesting the following variances:

1. To permit a proposed swimming pool on a corner lot, which extends into the

exterior side yard and the defined triangular sight line area prescribed by Section 10.7 whereas the by-law does not permit a swimming pool to extend into the exterior side yard or the defined triangular site line area when a corner lot abuts the side yard of an adjacent residential lot having a habitable room on the front corner of the ground floor;

2. To permit a proposed accessory building (pavilion/gazebo) having a gross floor area of 17.2 sq. m (185.14 sq. ft.) whereas the by-law permits a maximum gross floor area of 15 sq. m (161.46 sq. ft.) for an individual accessory structure.

Current Situation:

1. Conforms to the Intent of the Official Plan

The property is designated "Residential" in the Official Plan and "Low Density Residential 1" in the Credit Valley Secondary Plan (Area 45). The requested variances are not considered to have significant impacts within the context of the Official Plan policies. Subject to the recommended conditions of approval, the requested variances are considered to maintain the general intent of the Official Plan.

2. Conforms to the Intent of the Zoning By-law

The property is zoned "Residential Single Detached F-14.3 – Special Section 1462 (R1F-14.3-1462)" according to By-law 270-2004, as amended.

Variance 1 is to permit a proposed swimming pool on a corner lot, which extends into the exterior side yard and the defined triangular sight line area prescribed by Section 10.7, whereas the by-law does not permit a swimming pool to extend into the exterior side yard or the defined triangular site line area when a corner lot abuts the side yard of an adjacent residential lot having a habitable room on the front corner of the ground floor.

The intent of the by-law in regulating the location of a swimming pool in this way is to ensure that any impacts generated from the use of the swimming pool (such as noise) do not negatively impact the front yard of the adjacent property.

It is not anticipated that the addition of the pool will result in a level of impact (such as from noise) at a significantly higher rate than use of the rear yard amenity space without the proposed pool. Further, it is noted that the pool equipment is not proposed to be located in this portion of the yard, which will assist in lessening noise impacts. Subject to the recommended conditions of approval, Variance 1 is considered to maintain the general intent of the Zoning By-law.

Variance 2 is to permit a proposed accessory building (pavilion/gazebo) having a gross floor area of 17.2 sq. m (185.14 sq. ft.) whereas the by-law permits a maximum gross floor area of 15 sq. m (161.46 sq. ft.) for an individual accessory structure. The intent of the by-law in regulating the maximum permitted floor area of an accessory structure is to ensure that the size of the structure does not negatively impact the provision of outdoor amenity space for the property.

In the case of the subject property, the proposed gazebo will be of a mainly open style construction and is intended to enhance the use of the outdoor amenity space. A condition of approval is recommended that the proposed gazebo be of a primarily open style construction and shall not be fully enclosed to ensure that the structure is not enclosed on all sides. Subject to the recommended conditions of approval, Variance 2 is considered to maintain the general intent of the Zoning By-law.

3. Desirable for the Appropriate Development of the Land

Variance 1 is to permit a proposed swimming pool on a corner lot, which extends into the exterior side yard and the defined triangular sight line area prescribed by Section 10.7 whereas the by-law does not permit a swimming pool to extend into the exterior side yard or the defined triangular site line area when a corner lot abuts the side yard of an adjacent residential lot having a habitable room on the front corner of the ground floor.

In the case of the subject property approximately 50% of the proposed pool is located within the area defined by Section 10.7 of the Zoning By-law as is a significant portion of the rear yard amenity space for the dwelling.

It is not anticipated that any noise impacts arising from the use of the proposed swimming pool will significantly exceed that of use of the amenity area without the swimming pool, or that of the use of a pool only located within the permitted area. Subject to the recommended conditions of approval, Variance 1 is considered to be desirable for the appropriate development of the land.

Variance 2 is to permit an oversized accessory gazebo in the rear yard. The structure is intended to enhance the use of the outdoor amenity area. A condition of approval is recommended that the proposed gazebo be of a primarily open style construction and shall not be fully enclosed to ensure that the gazebo does not detract from the provision of outdoor amenity space and continues to be used to enhance the outdoor space. Subject to the recommended conditions of approval, Variance 2 is considered to be desirable for the appropriate development of the land.

4. Minor in Nature

Variance 1 is to permit a portion of the pool to extend into the exterior side yard of the property, and the portion of the rear yard that directly abuts a neighbouring side yard. Approximately 50% of the pool is in this portion of the yard, the other 50% of the pool is in a permitted portion of the yard.

Locating the pool in this portion of the property is not anticipated to impact the neighbouring property in a form more significant than what would arise from locating the pool in the permitted area of the yard. Subject to the recommended conditions of approval, Variance 1 is considered to be minor in nature.

Variance 2 is to permit an increase in gross floor area of 2.2 sq. m (23.38 sq. ft.) from the permitted 15 sq. m (161.46 sq. ft.) to 17.2 sq. m (185.14 sq. ft.). The increase is

considered to be nominal in nature and is not anticipated to have significant impacts on the provision of outdoor amenity space. Subject to the recommended conditions of approval, Variance 2 is considered to be minor in nature.

Respectfully Submitted,

Shelby Swinfield

Shelby Swinfield, Planner I